

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

DAVID FIGUEROA

CIVIL NO.

Plaintiff

DAMAGES; REQUEST FOR
ORDER FOR INJUNCTIVE RELIEF

v.

CONSEJO DE TITULARES DEL
CONDominio THE EXECUTIVE
TOWER; BANCO COOPERATIVO DE
PUERTO RICO; FULANO DE TAL 1-
100

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

COMES NOW, the defendant Banco Cooperativo de Puerto Rico, Inc. (“BCPR” or “Banco”), through the undersigned attorney, and respectfully **States, Alleges and Prays:**

INTRODUCTION

On May 28, 2021, plaintiff David Figueroa, filed the case captioned *David Figueroa v Consejo de Titulares del Condominio The Executive Tower, et al*, Civil No. SJ2021CV03293, before the Puerto Rico Court of First Instance, Superior Court of San Juan in the Commonwealth of Puerto Rico.

The plaintiff's complaint is an action governed by the provisions of Title III of the Americans with Disabilities Act, 42 U.S.C. §12181, et seq (A.D.A.). Remedy is sought under 42 U.S.C. §12188. Plaintiff further invokes request for remedy under the provisions of the Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 701 (R.A.). See **Exhibit A** (Certified Translation of the Complaint).

On June 30, 2021, BCPR received notice of the complaint by way of service of summons. See **Exhibit B** (Summons).

Pursuant to 28 U.S.C. §§ 1441 and 1446, BCPR hereby removes the Complaint from the State court. As will be discussed below, this district court has original jurisdiction over the complaint pursuant to 28 U.S.C. § 1331, because the case of reference presents a Federal Question. Moreover, this notice of removal has been timely filed in compliance with all applicable procedures.

BCPR has sought and secured consent from co-defendant Consejo de Titulares del Condominio The Executive Tower.

Discussion

A. Federal Question

1.Removal: 28 U.S.C. § 1331 grants jurisdiction to this Court of "all civil actions arising under the Constitution, laws or treatise of the United States." As indicated above, Plaintiff seeks injunctive relief against defendants for alleged violations to the ADA. Plaintiff's claims against BCPR consequently arise under the laws of the United States, which brings them within the scope

of this Court's federal question jurisdiction. This allows removal under the provisions of 28 U.S.C. § 1441(a).

2. State court pleadings: In accordance with 28 U.S.C. § 1446(a), BCPR has attached as exhibits to this notice of removal copies of the documents with which it was served. This includes a certified translation of the Complaint and the summons served on BCPR.

3. Notice to adverse parties: Furthermore, BCPR certifies that on this same date, it has sent a copy of this notice of removal by mail to Plaintiff and Co-Defendant, through their attorneys, and that it has filed a copy of the same with the clerk of the Puerto Rico Court of First Instance, San Juan Superior Court in accordance with 28 U.S.C. § 1446(d).

4. Non-Waiver of Defenses: By removing this action from the Commonwealth of Puerto Rico's Court of First Instance, San Juan Superior Court, defendant does not waive any defenses available to it. Furthermore, by removing this action from the Commonwealth of Puerto Rico's Court of First Instance, San Juan Superior Court, defendant does not admit any of the allegations contained in Plaintiff's Complaint.

WHEREFORE, BCPR gives notice of removal of the complaint filed in Civil Case No. SJ2021CV03293, before the Puerto Rico Court of Instance, San Juan Superior Court, pursuant to 28 U.S.C. §§ 1441 and 1446.

Certificate of Filing

WE HEREBY CERTIFY that on this same date, we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and sent notification by regular mail to **José Carlos Vélez Colón**, 421 Avenida Muñoz Rivera #205, San Juan, PR 00918.

RESPECTFULLY SUBMITTED.

In Guaynabo, Puerto Rico, this 30th day of July, 2021.

Marichal, Hernández, Santiago & Juarbe, LLC

Edificio Triple S Plaza
1510 Ave FD Roosevelt, Suite 9B1
Guaynabo, PR 00968

PO Box 190095
San Juan, PR 00919-0095
Tel 787.753.1565 Fax
787.763.1704

/s/**Miguel A. Rangel Rosas** USDC

Bar No.: 218601

mrangel@mhlex.com